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EXAMINER	
LUGO, CARLOS	

ART UNIT	PAPER NUMBER
3676	

DATE MAILED: 05/09/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/806,264	BACON, BRUCE C.	
	Examiner	Art Unit	
	Carlos Lugo	3676	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *13 March 2006*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1,2,4-25 and 27-41* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1,2,4-25 and 27-41* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *13 March 2006* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

1. This Office Action is in response to applicant's amendment filed on March 13, 2006.

Election/Restrictions

2. Applicant's election without traverse of group I in the reply filed on March 13, 2006 is acknowledged.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. **Claims 1,2,4-9,27-32,34,35, and 37-41 are rejected** under 35 U.S.C. 103(a) as being unpatentable over US Pat No 4,703,961 to Weinerman et al (Weinerman '961) in view of US Pat No 5,127,686 to Gleason et al (Gleason).

Regarding claim 1, Weinerman '961 discloses a rotary latch having a rotating latch member (300) and a pivoting release member (200) that selectively interact to retain and release a lock strike.

The latch further comprises a rigid, generally U-shaped housing (100) defined by a base (112) and opposing sidewalls (114 and 116) upstanding from opposite sides of the base in a mutually parallel relationship, and having a set of laterally aligned outwardly opening strike notches (174 and 176) in the sidewalls to selectively receive a portion of the lock strike (20) therein.

The latch also comprises a first set of mounting apertures (124 and 134) extending laterally through the sidewalls of the housing about a first pivot axis disposed generally perpendicular with the sidewalls and spaced laterally apart from the strike notches.

A first retainer (144) extends through the first set of mounting apertures to pivotally mount the latch member (300) in the housing between the sidewalls for rotation in a plane generally parallel with the sidewalls.

A second set of mounting apertures (126 and 136) extends laterally through the sidewalls of the housing about a second pivot axis disposed generally parallel with and spaced laterally apart from the first pivot axis.

A second retainer (146) extends through the second set of mounting apertures to pivotally mount the release member (200) in the housing between the sidewalls for rotation in a plane generally parallel with the sidewalls, and selective engagement with the latch member.

The first and second pivot axes are laterally aligned on the sidewalls to facilitate mounting of the rotary latch in both left and right hand latch locations.

However, Weinerman '961 fails to disclose that the housing includes an upstanding end wall formed integrally with the base and the sidewalls at a location adjacent to the strike notches to rigidify the housing.

Gleason teaches that it is well known in the art of latches to have a housing (22 and 24) having a generally U-shape, wherein the housing includes upstanding end

wall formed integrally with the base and the sidewalls at a location adjacent or nearby the strike notches (23) to rigidify the housing.

It would have been obvious to one having ordinary skill in the art of latches to provide the housing described by Weinerman '961 with an upstanding end wall, as taught by Gleason, in order to rigidify the housing structure.

As to claim 2, Weinerman '961 discloses that the latch includes a mounting bracket (30) adapted to mount the housing on an associated support surface. The latch includes first and second fasteners (40) connected with the first and second retainers in a generally coaxial relationship to mount the housing in both the left and right hand latch locations.

As to claim 4, Weinerman '961 illustrates that the housing includes an open, U-shaped end.

As to claim 5, Weinerman '961 illustrates that the first and second pivot axes lie in a plane disposed generally parallel with the base.

As to claim 6, the method of forming the device is not germane to the issue of patentability of the device itself. Therefore, the fact that the housing has a die cast construction has not been given patentable weight.

As to claim 7, Weinerman '961 illustrates that the latch member (300) is configured and positioned to extend completely across the strike notches (174 and 176) for improved engagement with the lock strike (20).

As to claim 8, Weinerman '961 illustrates that the first set of mounting apertures has a size and shape substantially identical with the size and shape of said second set of mounting apertures (Figure 12).

As to claim 9, Weinerman '961 illustrates that the first and second retainers have a substantially identical size and shape (Figure 12).

As to claim 27, Weinerman '961 illustrates that the housing includes an open, U-shaped end disposed adjacent the second pivot axis.

As to claim 28, Weinerman '961 illustrates that the first and second pivot axes lie in a plane disposed generally parallel with the base.

As to claim 29, the method of forming the device is not germane to the issue of patentability of the device itself. Therefore, the fact that the housing has a die cast construction has not been given patentable weight.

As to claim 30, Weinerman '961 illustrates that the latch member (300) is configured and positioned to extend completely across the strike notches (174 and 176) for improved engagement with the lock strike (20).

As to claim 31, Weinerman '961 illustrates that the first set of mounting apertures has a size and shape substantially identical with the size and shape of said second set of mounting apertures (Figure 12).

As to claim 32, Weinerman '961 illustrates that the first and second retainers have a substantially identical size and shape (Figure 12).

As to claim 34, Weinerman '961 discloses that the housing includes a stop (350) positioned along the base to abut the latch member and positively locate the same in a predetermined open position.

As to claim 35, Weinerman '961 discloses that the latch further includes a coil spring (250) mounted in the housing and resiliently biasing the latch member toward an open position.

As to claim 37, Weinerman '961 illustrates that the strike notches (174 and 176) have a generally U-shaped configuration defined by a bottom edge and first and second side edges extending outwardly from the bottom edge.

As to claim 38, Weinerman '961 illustrates that the first side edge is disposed at a first acute angle relative to the bottom edge and the second side edge is disposed at a second acute angle relative to the bottom edge. The second edge is disposed closest to the first pivot axis and the second acute angle is less than said first acute angle (Figure 12).

As to claim 39, Weinerman '961 illustrates that the bottom edge is disposed substantially parallel with the base (Figure 12).

As to claim 40, Weinerman '961 discloses that the latch member (300) includes a generally U-shaped outwardly opening notch configured to receive and selectively retain therein a portion of the lock strike.

As to claim 41, Weinerman '961 illustrates that opposed tapered outer ends to facilitate at least in part define the latch member notch guiding the lock strike into the latch member notch.

5. **Claim 10 is rejected** under 35 U.S.C. 103(a) as being unpatentable over US Pat No 4,703,961 to Weinerman et al (Weinerman '961) in view of US Pat No 5,127,686 to Gleason et al (Gleason) as applied to claim 1 above, and further in view of US Pat No 5,884,948 to Weinerman (Weinerman '948).

Weinerman '961, as modified by Gleason, fails to disclose that the first and second sets of mounting apertures each include a circular aperture disposed in a first one of the sidewalls, and a non-circular aperture disposed in a second one of said sidewalls. Weinerman '961 discloses that the apertures are circular with respect to the shape of the fastener.

Weinerman '948 teaches that it is well kwon in the art of latches to have a mounting aperture (426 and 428) that could have a non-circular aperture so that could receive a respective non-circular shaped fastener (nut).

It would have been obvious to one having ordinary skill in the art of latches to provide at least one mounting aperture as described by Weinerman '961, as modified by Gleason, with a non-circular aperture, as taught by Weinerman '948, since a change in the shape of a prior art device is a design consideration within the level of skill of one skilled in the art in order to accept any desire fastener so as to fastening the housing with respect to the mounting bracket.

6. **Claims 11-15 are rejected** under 35 U.S.C. 103(a) as being unpatentable over US Pat No 4,703,961 to Weinerman et al (Weinerman '961) in view of US Pat No 5,127,686 to Gleason et al (Gleason) and in view of US Pat No 5,884,948 to

Weinerman (Weinerman '948) as applied to claim 10 above, and further in view of US Pat No 2,017,421 to Post.

As to claim 11, Weinerman '961, as modified by Gleason and Weinerman '948, discloses that the retainers (144 and 146) have a hollow cylindrical body with a shank end. However, the combination fails to discloses that the retainer has an enlarge head end and that the retainers will deform in order to be secure the retainer into the housing.

Post teaches that it is well known in the art to have a retainer (1 and 4), wherein when the retainer, having a hollow cylindrical body with a enlarged head end (7) and a shank end (4), is placed through an aperture, by means of the fastener, the retainer will deforms so as to secure the retained within the structure (11).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the retainer described by Weinerman '961, as modified by Gleason and Weinerman '948, with a body that is capable of being deformed, as taught by Post, since the fact that how the retainer is secured to the housing is considered as a design consideration within the art that will not affect the mechanism of the latch.

As to claim 12, Weinerman '961 discloses that the hollow cylindrical body of the retainers is internally threaded to receive the first and second fasteners therein, and attach the housing to the mounting bracket.

As to claim 13, Weinerman '961 discloses that the housing includes a stop (350) positioned along the base to abut the latch member and positively locate the same in a predetermined open position.

As to claim 14, Weinerman '948 teaches that the non-circular aperture (426 and 428) includes at least one radially extending notch (edges that makes the hexagonal shape).

As to claim 15, Weinerman '961 discloses that the latch further includes a coil spring (250) mounted in the housing and resiliently biasing the latch member toward an open position.

7. **Claim 33 is rejected** under 35 U.S.C. 103(a) as being unpatentable over US Pat No 4,703,961 to Weinerman et al (Weinerman '961) in view of US Pat No 5,127,686 to Gleason et al (Gleason) as applied to claim 1 above, and further in view of US Pat No 5,884,948 to Weinerman (Weinerman '948).

Weinerman '961, as modified by Gleason, fails to disclose that the first and second sets of mounting apertures each include a circular aperture disposed in a first one of the sidewalls, and a non-circular aperture disposed in a second one of said sidewalls. Weinerman '961 discloses that the apertures are circular with respect to the shape of the fastener.

Weinerman '948 teaches that it is well kwon in the art of latches to have a mounting aperture (426 and 428) that could have a non-circular aperture so that could receive a respective non-circular shaped fastener (nut).

It would have been obvious to one having ordinary skill in the art of latches to provide at least one mounting aperture as described by Weinerman '961, as modified by Gleason, with a non-circular aperture, as taught by Weinerman '948, since a change in the shape of a prior art device is a design consideration within the level of skill of one skilled in the art in order to accept any desire fastener so as to fastening the housing with respect to the mounting bracket.

8. **Claims 1,2,4-9,27-32,35-37,40 and 41 are rejected** under 35 U.S.C. 103(a) as being unpatentable over US Pat No 5,069,491 to Weinerman (Weinerman '491) in view of US Pat No 4,703,961 to Weinerman et al (Weinerman '961) and further in view of US Pat No 5,127,686 to Gleason et al (Gleason).

Regarding claim 1, Weinerman '491 discloses a rotary latch having a rotating latch member (604') and a pivoting release member (614') that selectively interact to retain and release a lock strike.

The latch further comprises housing (626' and 628') having a set of laterally aligned outwardly opening strike notches (636' and 638') to selectively receive a portion of the lock strike therein.

The latch also comprises a first set of mounting apertures (642' and 652') extending laterally through the sidewalls of the housing about a first pivot axis disposed generally perpendicular with the sidewalls and spaced laterally apart from the strike notches.

A first retainer (632') extends through the first set of mounting apertures to pivotally mount the latch member (604') in the housing between the sidewalls for rotation in a plane generally parallel with the sidewalls.

A second set of mounting apertures (644' and 654') extends laterally through the sidewalls of the housing about a second pivot axis disposed generally parallel with and spaced laterally apart from the first pivot axis.

A second retainer (634') extends through the second set of mounting apertures to pivotally mount the release member (614') in the housing between the sidewalls for rotation in a plane generally parallel with the sidewalls, and selective engagement with the latch member.

The first and second pivot axes are laterally aligned on the sidewalls to facilitate mounting of the rotary latch in both left and right hand latch locations.

However, Weinerman '491 fails to disclose that the housing is a rigid, generally U-shaped housing. Weinerman '491 discloses that the housing is form by two plates (626' and 628') connected together forming a U-shaped housing.

Weinerman '961 teaches that it is well known in the art of latches to have a rigid, U-shaped housing (100) as a one-piece construction that includes a base and two sidewalls.

It would have been obvious to one having ordinary skill in the art of latches to made the housing described by Weinerman '491 as a one-piece construction housing, as taught by Weinerman '961, since a one-piece construction, in place of

separate elements fastened together, is a design consideration within the skill of the art.

Further, Weinerman '491 fails to disclose that the housing includes an upstanding end wall formed integrally with the base and the sidewalls at a location adjacent to the strike notches to rigidify the housing.

Gleason teaches that it is well known in the art of latches to have a housing (22 and 24) having a generally U-shape, wherein the housing includes upstanding end wall formed integrally with the base and the sidewalls at a location adjacent or nearby the strike notches (23) to rigidify the housing.

It would have been obvious to one having ordinary skill in the art of latches to provide the housing described by Weinerman '491, with an upstanding end wall, as taught by Gleason, in order to rigidify the housing structure.

As to claim 2, Weinerman '491 fails to disclose that the latch is mounted on a mounting bracket.

Weinerman '961 teaches that it is well known in the art of latches to have the housing (100) mounted on a mounting bracket (30).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the latch described by Weinerman '491 with a mounting bracket, as taught by Weinerman '961, in order to mount the housing on an associated support surface.

As to claim 4, Weinerman '491 illustrates that the housing includes an open, U-shaped end.

As to claim 5, Weinerman '491 illustrates that the first and second pivot axes lie in a plane disposed generally parallel with the base.

As to claim 6, the method of forming the device is not germane to the issue of patentability of the device itself. Therefore, the fact that the housing has a die cast construction has not been given patentable weight.

As to claim 7, Weinerman '491 illustrates that the latch member (604') is configured and positioned to extend completely across the strike notches for engagement with the lock strike.

As to claim 8, Weinerman '491 illustrates that the first set of mounting apertures has a size and shape substantially identical with the size and shape of said second set of mounting apertures.

As to claim 9, Weinerman '491 illustrates that the first and second retainers have a substantially identical size and shape.

As to claim 27, Weinerman '491 illustrates that the housing includes an open, U-shaped end disposed adjacent the second pivot axis.

As to claim 28, Weinerman '491 illustrates that the first and second pivot axes lie in a plane disposed generally parallel with the base.

As to claim 29, the method of forming the device is not germane to the issue of patentability of the device itself. Therefore, the fact that the housing has a die cast construction has not been given patentable weight.

As to claim 30, Weinerman '491 illustrates that the latch member (604') is configured and positioned to extend completely across the strike notches for improved engagement with the lock strike.

As to claim 31, Weinerman '491 illustrates that the first set of mounting apertures has a size and shape substantially identical with the size and shape of said second set of mounting apertures.

As to claim 32, Weinerman '491 illustrates that the first and second retainers have a substantially identical size and shape.

As to claim 35, Weinerman '491 discloses that the latch further includes a coil spring (664') mounted in the housing and resiliently biasing the latch member toward an open position.

As to claim 36, Weinerman '491 discloses that the latch member includes at least two notches that are selectively engaged by the release member to retain the latch member in first and second closed positions.

As to claim 37, Weinerman '491 illustrates that the strike notches (636' and 638') have a generally U-shaped configuration defined by a bottom edge and first and second side edges extending outwardly from the bottom edge.

As to claim 40, Weinerman '491 discloses that the latch member (604') includes a generally U-shaped outwardly opening notch configured to receive and selectively retain therein a portion of the lock strike.

As to claim 41, Weinerman '491 illustrates that opposed tapered outer ends to facilitate at least in part define the latch member notch guiding the lock strike into the latch member notch.

9. **Claim 10 is rejected** under 35 U.S.C. 103(a) as being unpatentable over US Pat No 5,069,491 to Weinerman (Weinerman '491) in view of US Pat No 4,703,961 to Weinerman et al (Weinerman '961) and in view of US Pat No 5,127,686 to Gleason et al (Gleason) as applied to claim 1 above, and further in view of US Pat No 5,884,948 to Weinerman (Weinerman '948).

Weinerman '491, as modified by Gleason and Weinerman '961, fails to disclose that the first and second sets of mounting apertures each include a circular aperture disposed in a first one of the sidewalls, and a non-circular aperture disposed in a second one of said sidewalls. Weinerman '961 discloses that the apertures are circular with respect to the shape of the fastener.

Weinerman '948 teaches that it is well kwon in the art of latches to have a mounting aperture (426 and 428) that could have a non-circular aperture so that could receive a respective non-circular shaped fastener (nut).

It would have been obvious to one having ordinary skill in the art of latches to provide at least one mounting aperture as described by Weinerman '491, as modified by Gleason and Weinerman '961, with a non-circular aperture, as taught by Weinerman '948, since a change in the shape of a prior art device is a design consideration within the level of skill of one skilled in the art in order to accept any desire fastener so as to fastening the housing with respect to the mounting bracket.

10. **Claims 11 and 12 are rejected** under 35 U.S.C. 103(a) as being unpatentable over US Pat No 5,069,491 to Weinerman (Weinerman '491) in view of US Pat No 4,703,961 to Weinerman et al (Weinerman '961) in view of US Pat No 5,127,686 to Gleason et al (Gleason) and in view of US Pat No 5,884,948 to Weinerman (Weinerman '948) as applied to claim 10 above, and further in view of US Pat No 2,017,421 to Post.

As to claim 11, Weinerman '491, as modified by Gleason and Weinerman '961 and '948, discloses that the retainers (144 and 146) have a hollow cylindrical body with a shank end. However, the combination fails to discloses that the retainer has an enlarge head end and that the retainers will deform in order to be secure the retainer into the housing.

Post teaches that it is well known in the art to have a retainer (1 and 4), wherein when the retainer, having a hollow cylindrical body with a enlarged head end (7) and a shank end (4), is placed through an aperture, by means of the fastener, the retainer will deforms so as to secure the retained within the structure (11).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the retainer described by Weinerman '491, as modified by Gleason and Weinerman '961 and '948, with a body that is capable of being deformed, as taught by Post, since the fact that how the retainer is secured to the housing is considered as a design consideration within the art that will not affect the mechanism of the latch.

As to claim 12, Weinerman '491 discloses that the hollow cylindrical body of the retainers is internally threaded to receive the first and second fasteners therein, and attach the housing to the mounting bracket.

Response to Arguments

11. Applicant's arguments filed on March 13, 2006 have been fully considered but they are not persuasive.

The applicant argues that Gleason fails to teach a rigid housing that includes an upstanding end wall; that is made from stamped metal that uses rivets 47 to give support (Page 23 Line 13). The argument is not persuasive.

First, either Weinerman '961 or Weinerman '491 already discloses a rigid housing. Gleason is only used to show that it is well known in the art of latches to have a housing (22 and 24) having a generally U-shape, wherein the housing includes upstanding end wall formed integrally with the base and the sidewalls at a location adjacent or nearby the strike notches (23) to rigidify the housing.

Second, element 47 are axles for the latch elements inside the housing, not rivets to give support. The wall between the members 22 and 24 is the one that give support. Therefore, the arguments are not persuasive and the rejection is maintained.

Conclusion

12. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carlos Lugo whose telephone number 571-272-7058. The examiner can normally be reached on 9-6pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Glessner can be reached on 571-272-6843. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-306-5771.

C.L.

Carlos Lugo
Patent Examiner AU 3676
May 1, 2006

BRIAN GLESSNER
SUPERVISORY PATENT EXAMINER